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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,136	10/24/2003	David M. Allen	2646-000001	1778

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EXAMINER

NGUYEN, SON T

ART UNIT PAPER NUMBER

3643

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,136

Applicant(s)

ALLEN, DAVID M.

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 09 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-4,9** are rejected under 35 U.S.C. 102(b) as being anticipated by Sabo (6003749).

For claims 1 & 9, Sabo teaches a ground mat comprising a non-rigid base; a plurality of hold-downs 17 (col. 2, lines 65-67) coupled to the base; and a plurality of tensioners 14,15, each tensioner having a first portion (the ring/loop of ref. 15) that is fixedly coupled to the base and a second portion (the strap of 14) that may be coupled to the loop 15.

For claim 2, Sabo teaches a slit 12A and closure 14,15 to close the slit.

For claim 3, Sabo teaches the closure is a hook and loop fastener (col. 2, line 47).

For claim 4, Sabo teaches the slit extends from an outer edge of the base to a point outwardly of a center of the base.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1,2,4,5,7,8,10-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brimmell (3750731) in view of Crawley (5085001) and Clancey (6705044).

For claims 1,2,10, Brimmell teaches a ground mat comprising a non-rigid base 18; a plurality of tensioners 205 having first and second portions. In addition, Brimmell teaches a slit 41 with closures 40 and an aperture 16 in the base and the slit intersects the aperture. However, Brimmell lacks a plurality of hold-downs and each tensioner having a first portion that is fixedly coupled to the base. Note, for the second portion, the claim language states "may be selectively coupled", therefore, the second portion of the tensioner 205 may be selectively coupled if one wishes since the tensioner is capable of being coupled to an object.

Clancey teaches a ground mat having a plurality of tensioners 38,44, each tensioner having a first portion 40,46 that is fixedly coupled to the mat. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fixedly couple as taught by Clancey a first portion of the tensioner to the base of Brimmell in order to assure that the tensioners will not slip through the base from the sleeve containing the tensioners.

Crawley teaches a ground mat comprising a plurality of hold downs 27,28 coupled to a base 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a plurality of hold downs as taught by Crawley in the mat of Brimmell in order to prevent the mat from moving.

For claims 4,5,7,8,11-15, Brimmell as modified by Clancey and Crawley (emphasis on Brimmell) teaches the slit extends from an outer edge of the base to a point (at refs. 17,19) outwardly of a center of the base (note, the center is not considered as the hole 16; instead, a center is a point in the middle of the base or the center of hole 16). In addition to the above, Crawley teaches a ground mat wherein a slit 14 terminates inwardly at a series of perforations/cutting indicia 16,17 defining a plurality of shapes, wherein each shape is disposed inside another one of the shapes, wherein the shapes are concentric with one another and wherein each of the shapes is similar but differently sized. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a series of perforations/cutting indicia 16,17 defining a plurality of shapes, wherein each shape is disposed inside another one of the shapes, wherein the shapes are concentric with one another and wherein each of the shapes is similar but differently sized as taught by Crawley in the ground mat of Brimmell as modified by Clancey and Crawley in order to allow a user to accommodate to different sized object that the mat surrounds.

For claim 16, see the above teaching of Brimmell as modified by Clancey and Crawley.

5. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Brimmell as modified by Clancey and Crawley as applied to claim 1,2,4,5 above, and further in view of McMurtney (5058317).

Brimmell as modified by Clancey and Crawley is silent about a plurality of intersecting lines. McMurtney teaches a ground mat having a plurality of intersecting

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lines 16,22,36. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a plurality of intersecting lines as taught by McMurtrey in the mat of Brimmell as modified by Clancey and Crawley in order to hug tightly around the object to be surrounded.

6. **Claims 17-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen (US 6128852) in view of Hinsperger (US 5070643).

For claim 17, Hansen teaches a method of installing a ground mat having a non-rigid base 36, the method comprising the steps of securing the mat to the ground at a plurality of locations by laying the mat down. However, Hansen is silent about the step of tensioning. Hinsperger teaches a method of installing a ground mat having the step of tensioning the base 4 after it has been secured to the ground by tying tensioners 12 to hold-downs 8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the step of tensioning as taught by Hinsperger in the method of Hansen in order to hold down the mat from wind and to allow a user to adjust the distance of the hold-downs by using the tensioners.

For claim 18, Hansen as modified by Hinsperger (emphasis on Hansen) further teaches wherein prior to securing the mat to the ground, the method includes opening a slit in the base and fitting the base about an object as shown in fig. 1 around the plant 26.

For claim 19, Hansen as modified by Hinsperger (emphasis on Hansen) further teaches wherein the step of fitting the base about an object includes forming a hole in the base, the hole intersecting the slit as shown clearly in fig. 5.

Response to Arguments

7. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection. Arguments pertaining to claims 17-19 will be addressed herein.

Applicant argued that the ropes (12) of Hinsperger do not tension or adjust the size and/or shape of the perimeter of the panels (4) that make up the cover (2), but rather simply lie across the panels (4) in a manner that limits the movement of the cover (2). Applicant notes that the rope may be able to apply a compressive force to the surface of the panels, but it does not appear to be possible to apply tension through the rope.

Claim 17 does not indicate tensioning to adjust the size and/or shape of the perimeter of the base. Claim 17 merely states tensioning the base to conform to a contour of the ground. Thus, ropes 12 do applied tension to the base at the surface as stated by Applicant, which meets the claimed limitation. Tensioning the base is broad language, thus, can be interpreted many ways, which one way is the rope 12 puts tension or force on the surface of the base, thus, will tensioned the base in the area the force is applied. In addition, the ropes 12 are looped through the stakes 8 as shown in fig. 6, which ropes and stakes do tensioned the base on the ground.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

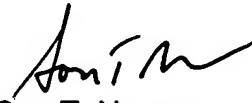
§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Son T. Nguyen
Primary Examiner
Art Unit 3643

stn